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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/249,642	02/12/1999	QUAN A. VU	SONY-11300	1161
28960	7590	04/21/2004	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			WILSON, JACQUELINE B	
			ART UNIT	PAPER NUMBER
			2612	
DATE MAILED: 04/21/2004				

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)
	09/249,642	VU ET AL.
	Examiner	Art Unit
	Jacqueline Wilson	2612

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires 3 months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. Applicant's reply has overcome the following rejection(s): _____.
4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.
6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. The drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

10. Other: _____.

Advisory Action

The applicant argues that the prior art fails to teach forming x number of first data blocks each containing n units of data, forming y number of second data blocks each containing m units of data and combining x number of first data blocks and y number of second data blocks into a data stream to achieve the predetermined rate and evenly distributing the x number data blocks among the y number of data blocks. Closely reviewing the Staats reference, the examiner still believes that the prior art teaches the applicants claimed limitations. Staats teaches in Table 1 equations used in determining when to transmit data blocks. Although Staats used 266.5 for example purposes, the examiner uses 266.973 (which is closest to 267) as discussed in column 6, lines 10+.

Beginning in cycle 0, the data is given below:

		<u>Cycles begins</u>	Δ
267	$(266.973)(0) + 2 = 2$	0	0
267	$(266.973)(1) + 2 = 268.973$	267	.027
267 <ins>266</ins>	$(266.973)(2) + 2 = 535.946$	534	.054
	$(266.973)(10) + 2 = 2671.73$	2670	.27
267	$(266.973)(35) + 2 = 9346.055$	9345	.945
267	$(266.973)(36) + 2 = 9613.028$	9612	.972
267	$(266.973)(37) + 2 = 9880.001$	9879	.999
267	$(266.973)(38) + 2 = 10146.974$	10146	1.026
266	$(266.973)(39) + 2 = 10413.947$	10412	.053
267	$(266.973)(75) + 2 = 20024.975$	20024	1.025
266	$(266.973)(76) + 2 = 20297.948$	20290	.052

Staats uses 266.5 for convenience in showing when to include 266 and 267 data packets in the data stream. However, the examiner uses the targeted value 266.973. In this case, after calculating the first two values, the cycle repeats every 37th packet. As shown above when x=2, 39, 76, etc, the DCL jump command will include packet 266 and will repeat over time (see col. 8-col. 9). This reads on the limitation of evenly distributing x number of first data blocks among the y number of second data blocks thereby forming a repeating pattern of the first data blocks and second data blocks within the data stream. Therefore, the rejection is maintained.

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